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The Balance, AND COLUMBIAN REPOSITORY.

"HAIL SACRED POLITY, BY FREEDOM REAR'D !
"HAIL SACRED FREEDOM, WHEN BY LAW RESTRAIN'D !"
BEATTIE.

HUDSON, (New-York) TUESDAY, February 8, 1803.

Political.

FOR THE BALANCE.

"Nothing extenuate, nor set down aught in malice."

AN ACCURATE STATEMENT OF FACTS,
CONCERNING
Mr. ATTORNEY-GENERAL SPENCER's
LATE ATTACK
ON THE

Liberty of the Preſs,

IN THIS COUNTY.

Written by a gentleman who was at court during the whole transaction, and who pledges himself that the detail is substantially correct.

[CONTINUED.]

MR. VAN NESS began by regretting, that on a queſtion of ſuch acknowledged importance to every freeman, longer time for preparation could not be afforded. He felt that in defending Mr. Croswell from the demand of the public proſecutor, he was defending the legitimate rights, the legitimate privileges of every freeman—rights and privileges which could be entombed only in the great tomb of our republic. He believed, that the attempt of the Attorney-General was a direct attack upon the moſt important principles of a republican government; and if he ſhould ſucceed, no man could hereafter know when he was ſecure from the vengeance of power. He felt it, therefore, a ſacred duty to raiſe his voice againſt this unhallowed attempt, and to exert all his powers, in concert with his friend, to ſnatch Mr. Croswell from the clutches of the proſecutor.

He ſaid, the gentleman who had preceded him, had taken ſo wide a ſcope—ſo thoroughly inveſtigated the authorities adduced, and ſo concluſively proved the illegality of the motion, that little remained for him to obſerve upon the *law*. His obſervations would be principally directed to the conſequences which would reſult from a reſtriction of the preſs, ſuch as was now demanded.

The preſent caſe, he ſaid, exhibited a curious ſpectacle. It was within the recollection of every man, what clamors, what tumults were raiſed by a certain party, when a law was paſſed forbidding any man to publiſh falſhoods reſpecting government. By that ſtatute, the truth might be given in evidence. But ſcarcely has that law expired—ſcarcely have theſe clamors ceaſed to echo through the continent, when that very party commence proſecutions upon the principle that the truth itſelf is a libel, and muſt not be told of thoſe ſacred characters whom they have exalted to power. Theſe circumſtances furniſhed topics for reflection which he would not indulge. He wiſhed that the preſent queſtion might be abſtracted from party. And he hoped that the ſhort-lived pleaſure of triumphing over his opponents, would not urge the public proſecutor to perſevere againſt conviction and conſcience. For, ſaid Mr. Van Ness, tranſitory indeed would be thoſe laurels which he may reap around the ruins of the freedom of the preſs.

Mr. Van Ness then, in glowing colours, painted the bleſſings reſulting to the community from a free preſs. Look round the world, ſaid he, and in every country where the preſs is free, the arts and ſciences flouriſh. From this fountain, have flown all the improvements in modern times, in general intelligence, in the ſcience of political government, in all the conveniences and luxuries of life. In a word, in every country where it has been protected and cheriſhed, its bleſſings were far beyond the reach even of the preſs to deſcribe. It was, he ſaid, and ſo experience had demonſtrated, the unbending protection of the rights of man, and an unconquerable bulwark againſt oppreſſion. He enjoined it upon the judges, as they valued the nobleſt principles of freedom, and as they wiſhed to leave their children in the full enjoyment of its bleſſings, to avert the blow aimed at the very vitals of our republic.

Mr. Van Ness proceeded, with great ability, to prove that the preſent meaſure, if executed, would reſtrain the true liberty of the preſs. He quoted Blackſtone's definition of the liberty of the preſs.—"The liberty of the preſs is indeed eſſential to the nature of a free ſtate. But this conſiſts in laying no *previous reſtraint* upon publications, and not in freedom from cenſure for criminal matters when publiſhed." And, with great force and clearneſs, he demonſtrated, that in every point of view, this recognizance would operate as a previous reſtraint.

What, ſaid he, is the due courſe preſcribed by law for the puniſhment of a libel? Indictment and conviction by a jury. Upon what ground does the public proſecutor demand a more ſummary procedure? Does he contend that Croswell is a perſon of *bad fame*? dare not contend it. For every act

...obers, ...ng their ...heir own ...n," &c.

life is a living monument of the reverſe. —No! he goes upon the ground that Mr. Croswell is a libeller. And by what right does he pronounce him a libeller? Has he been convicted by a jury? Have his peers pronounced his publications libellous? Let him wait the iſſue of the trial; let him reſtrain his eagerneſs to fetter the preſs until a jury ſhall judge Mr. Croswell guilty; then, indeed, with ſome plauſibility, may he come forward with the preſent motion.

What is the effect of this motion? The court is aſked to lay Harry Croswell under bonds of 8000 dollars, to keep the peace and be of good behaviour. The ſlighteſt miſbehaviour forfeits the bonds; and thus, without conviction, without even a trial by his peers, for the ſmalleſt poſſible offence, Mr. Croswell may be plunged in poverty, and his family reduced to beggary and want. His ruin might be the conſequence of an act ſcarcely criminal, and for which altho' convicted by a jury, he would ſcarcely be cenſured.—This, Mr. Van Ness contended, was monſtrous doctrine; and he wondered it did not bliſter the lips of any man who dared to urge it.

He then read the following ſentence from the ſpeech of Mr. Fox, on the law of libels:—"In the preſent enlightened age, "Mr. Fox ſaid, that he had no reaſon to "fear that previous reſtraints would be at- "tempted to be impoſed on the preſs.— "The good ſenſe of the times would not "brook an *imprimatur, or previous ſure- "ties of any kind for good behvviour.* "And it was not in ſuch way that he "dreaded any danger to the preſs." In expreſs words, it is here called a previous reſtraint, in the form of "previous ſureties of any kind for good behaviour."

Can there be a doubt, then, that this meaſure would operate as a *previous* reſtraint? And if ſo, according to the definition of Blackſtone, and the opinion of all approved writers, it is an illegal violation of that ſacred guardian of our rights, the liberty of the preſs.

Beſides, ſaid he, the citizen is robbed of the right of trial by jury. Their province is uſurped by every juſtice; by magiſtrates always ſubject to the power of thoſe who created them; and they aſſume the right to decide whether publications are libellous or not. The court would heſitate long before it took a ſtep pregnant with ſuch awful conſequences. For, ſaid Mr. Van Ness, hiſtory teaches, and our experience confirms the fact, that in free governments parties will ſucceſſively riſe to power, and ſink into weakneſs. This is the beaten track of all republics. To-day a party riſes to the zenith of power. Brig a few years roll away when another Ar on the ruins of its predeceſſor; and from the aſhes of both a third may ſpring up, and aſſume all the political power and conſequence in the community. Theſe ſucceſſive parties will ever find men calculated to become their minions. Theſe men they may alternately exalt into magiſtrates. And if the preſent doctrine is eſtabliſhed, each party in its turn, through theſe magiſtrates, will have the compleat controul of every preſs in the country. And in *their* hands, the freedom of the preſs and of pubtic diſcuſſion, will become a ſpirit haunting thoſe places where it once had flouriſhed. The politicians, the magiſtrates, will have nothing to check their miſconduct. The people to whom they are reſponſible, and from whom they derive all their power, muſt remain ignorant of every thing. The ambitious and the immoral, may triumph in their crimes, without fear of detection. This country will fall from its happy ſtate of freedom, and the people become the victims of tyranny, until, roufed by accumulated oppreſſion, they will burſt the fetters which reſtrain their rights, and ſeek "through blood and ſlaughter their long-loſt liberties."

Theſe are not the idle fantaſies of imagination. The tendency of the preſent meaſure, is direct to the introduction of ſcenes ſuch as I have deſcribed. The freedom of diſcuſſion now checks, in its riſe, every vicious meaſure of government. Place the preſs in the hands of every magiſtrate, and this check is gone forever.—The people, deprived of true information, can no longer judge correctly of the conduct of their rulers; nor can they reform abuſes until, mad with oppreſſion, they riſe in their might and ſpurn into inſignificance their proud oppreſſors. He called on the court to weigh well the ſtep they were about to take—to reflect on the fatal conſequences, before they finally paſſed the Rubicon.

Mr. Van Ness then, with great force of argument, anſwered the authorities adduced by the Attorney General, and took a view of thoſe produced by Mr. Williams; and clearly proved, that the attempt was illegal, unprecedented, and directly againſt the policy of our government. But, as his arguments upon this part of the ſubject, were ſomewhat ſimular to thoſe before advanced by Mr. Williams, it is thought unneceſſary to repeat them.

Mr. Van Ness then read the following remarks from Burn's Juſtice, vol. 4th, p. 251, "Upon the whole, the magiſtrate in this article of good behaviour, cannot exerciſe too much caution and good adviſement." "Although the juſtice of the peace may have a diſcretionary power, yet it is a legal diſcretion *in which in favour of liberty great tenderneſs is uſed.*"—"That in matters which the law hath left indefinite it is *better to fall ſhort of than exceed his authority.*"

It is here obvious, ſaid Mr. Van Ness, with what caution the Engliſh Magiſtrates approach the liberties of the ſubject. And in a republic, ſhall the courts of juſtice neglect thoſe rules of caution, which, in the Engliſh Monarchy, are held ſacred; and, for the purpoſe of impoſing fetters on the preſs, ſhall they reſort to more rigid conſtructions?

He then read the third ſection of the habæs corpus act, which gives to any one impriſoned for any miſdemeanor, (other than treaſon and felony) the writ of habæs corpus, by which he may come before a judge of the ſupreme court, and he recognized for his appearance at the proper court, and at the proper time; and upon ſuch recognizance the judge is bound to liberate him. Here, then, ſaid Mr. Van Ness, is our final ſecurity. Whatever may be Mr. Croswell's fate before this court, there is an appeal to a higher tribunal.—The writ of habæs corpus is ſecured, and knowing that no court, no proſecutor, can deprive Mr. Croswell of this right, he felt perfectly ſecure. This writ is that holy palladium of human rights, which, in the worſt times which England ever knew, had always ſecured to the ſubject thoſe privileges which the laws had guaranteed. And in this country, it will bear the citizen, it will bear Mr. Croswell to a tribunal where party ſpirit is a ſtranger—where the influence of no man can pervert the ſtreams of juſtice, and where, happily for our country, the law and the conſtitution are paramount to every power. Mr. Van Ness ſaid, that by whatever he had ſaid, he meant no diſreſpect to the court he was then addreſſing. He had ſpoke of the tendencies of the preſent motion; and he had ſpoken his ſolemn convictions from the ſincerity of his heart. And he hoped and truſted, that the juſtices would weigh well the queſtion they were about to decide, and that in their deciſion they would be guided by ſound diſcretion and ſolid principles. In the full belief that this would be the caſe, he delivered his client into their hands. He did this in the fulleſt confidence, that by their deciſion, they would convince the world, that courts of juſtice would not ſanction the attempts of any man to fetter the preſs—to deſtroy the rights of a free citizen, and pervert the law to an engine of party perſecution.

Mr. Van Ness here cloſed a very impreſſive and forcible argument, and was followed by Mr. Spencer upon the other ſide of the queſtion.

[Mr. Spencer's arguments, the deciſion of the court, &c. are unavoidably poſtponed until next week.]

Messrs. EDITORS,

IN giving an account of the occurrences at Claverack, in the BALANCE No. 4, I could only ſtate, what took place *in open court*. In juſtice to the Attorney General, I now correct that account in one particular. I am informed that the cauſes were put off, in conſequence of a propoſition made by the Attorney-General, *out of court*, to the defendant's counſel. This propoſition appeared in the Bee.—And I preſume it was aſſented to, merely becauſe the defendant's counſel believed, that if the affair was left to the judges, Mr. CROSWELL would have been driven to trial totally unprepared. C.

FOR THE BALANCE.

TO MR. HOLT,

NOTWITHSTANDING the two great political parties which exiſt in our country, diſagree in moſt eſſential points on politics, ſtill they are united in opinion in one reſpect, viz.—that it is important that the people have correct information; and that it is the duty of editors of newſpapers to furniſh it honeſtly and truly as far as they are able.—This, Mr. Holt, you will admit; and on this ground I ſhake hands with you. You are, ſir, on ſome occaſions, a man of candor, and I intend, in what follows, to be under the influence of candor myſelf.—I mean to treat you delicately, and ſhall expect the ſame in return from you.—I ſhall aſk you ſome ſerious queſtions, and have a right to expect catagorical anſwers.

Mr. Jefferſon, in his late meſſage to congreſs, has ſtated that he had, in one year laſt paſt, paid between eight and nine millions of dollars of the principal and intereſt of the public debt.

Where did he get this money? Did it come into the treaſury as the reſult of meaſures deviſed and purſued under the adminiſtrations of Waſhington and Adams?

How much money has been ſaved by the repeal of the judiciary ſyſtem, internal taxes, the abolition of the law reſpecting the army and navy, and by diſmiſſing the revenue officers, &c. &c?

Did Thomas Jefferſon ever invite Thomas Paine to come over from France and reſide in this country?

Was it ever proven to your ſatisfaction, that Timothy Pickering, Oliver Wolcott, Jn. Dayton and James Roſs, appropriated a cent of the public money to private purpoſes?

Have not the democrats uniformly declared, 'till within two years paſt, that no man ought to be removed from office on account of his political ſentiments?

Has Thomas Jefferſon turned any perſon out of office on account of his political ſentiments?

Have the Poſt-Maſter General, and the Governor and Council of Appointment of this ſtate, done the ſame?

CANDOR.

Feb. 1, 1803.

[*Several other queries to Mr. Holt, by the ſame correſpondent, are deemed improper for publication at this particular time.*]

Balance Closet.

[*The following articles were prepared for publication last week, but omitted for want of room.*]

FIBS OF THE BEE.

Perhaps there cannot exiſt a more contemptible being, than a man who is in the conſtant habit of telling falſhoods, which he, at the ſame time, declares are "immaterial," and avail him nothing.—We will not ſay that the editor of the Bee is ſuch a man; but we will here note down ſome of his wanton miſtakes.

No. 1.—A few weeks ſince Holt publiſhed a plump falſhood concerning the junior editor of the Balance. It was immediately detected and expoſed; when Holt (not having any extracts of letters without ſignatures to *prove* it) acknowledged its falſity, obſerving, that "the writer's argument was not affected by this *miſtake*."—That is, it was a mere *wanton fib*

No. 2.—In the laſt Bee, Holt aſſerts, that, in the warfare between the Balance and the Bee, *we* were the agreſſors; but that he holds this immaterial.—This alſo will prove to be a *wanton fib*.—On receiving the very *firſt number* of the Balance, publiſhed in the ſpring of 1801, Holt mentioned its eſtabliſhment, and fooliſhly and ſneeringly remarked, that if its editors had no other buſineſs than publiſhing a newſpaper, two of them had better go to Weſt-Point, and enliſt for ſoldiers, and the other immediately follow—or ſomething to that effect. The junior editor of the Balance wrote a ſhort reply—but Mr. Sampſon, on peruſing it, obſerved, that he thought the Bee too contemptible for notice; and the reply, therefore, was never publiſhed.—Sometime after this, and before the Bee had ever been mentioned in the Balance, Holt made another unprovoked attack on the ſenior editor, comparing him with Judas Iſcariot. Mr. Sampſon ſtill declined noticing him; and he was anſwered by the "junior editor."—Theſe facts can be proved by recurring to the files; and they are ſufficient to ſink the veracity of the Bee lower, *if poſſible*, than it now lies.

No. 3—Holt's account of the Attorney-General's late attack on the liberty of the preſs, is a maſs of miſrepreſentation, *wantonly* made. This, to be ſure, is the leſs ſurprizing, as he was not at court himſelf, and probably received his information from the moſt impure ſources. It is needleſs to add any thing on this ſubject, as ſome of the moſt reſpectable characters in the county are ready to give teſtimony of the accuracy of the ſtatement now publiſhing in the Balance.

No. 4.— ..... But we deſiſt.

A PAIR OF BULLS.

The editor of the Bee has long been attempting to bear away the palm from Duane in the democratic art of fibbing. For the want of ingenuity, he has ſucceeded but indifferently. He is now trying his hand at making *bulls*.—See, here they come:—

Addreſſing Mr. Sampſon, he ſays, "So long as your name is *foremoſt at the foot* of the Balance," &c.

This reminds us of Paddy's companion, who "Walk'd by his *ſide* and *follow'd before* him."

Again, Holt aſks, "Have you forgotten your frequent attacks on the Hudſon Bee.....*previous to its exiſtence?*"

If the editor of the Bee had been but two months from Ireland, he could not have done better. He beats Duane himſelf.

"With the vulgar, the ſcurrilous, the unprincipled, and the contemptible, I will hold no converſe," ſays Mr. Holt.—If any reliance could be placed on the promiſes of this man, there might be ſome hopes of him; for it would appear evident, from the above declaration, that he is about renouncing his party.

"The greater the truth the greater the libel."

Holt aſcribes this obſervation to the editors of the Balance. If he had been at court the other day he might have heard it thundered from the eloquent lips of Ebenezer Foot, ESQUIRE, the District-Attorney.

Mitchell, the being who conducts the Poughkeepſie Barometer, or *fog-mill*, after mentioning that Cheetham had been arreſted at the ſuit of Col. W. Smith, for a libel, damages laid at *ſixty-thouſand dollars*, aſks, "Do ye ſtill think, ye federal editors, that the *preſs is in danger?*"——If any thing like honeſty or fair-dealing, could be expected from ſuch a wretch as Iſaac Mitchell, we ſhould be ſurprized at this baſeneſs. It is inſinuated that the above ſuit was brought by a federaliſt, when the fact is, Col. Smith is a democrat, as well as Cheetham.——Yes, Mitchell, federal editors ſtill think the preſs is in danger—not, however, from private actions for libels, but from the malice and perſecution of public proſecutors, who are ſtriving to prevent the publication of truth concerning the government.

It appears by ſeveral late accounts, that moſt of our large ſea-port towns are infeſted by robbers, houſe-breakers and incendiaries, "managing their own affairs in their own way, and for their own uſe, unembarraſſed by too much regulation," &c.

Columbian Congress.

From the Gazette of the United States.

INTERESTING DEBATE

In the house of representatives, on the resolution of Mr. Griswold, calling for information relative to the cession of Louisiana to France.

[Mr. Griswold in continuation.]

Reference has been made to a call for papers in the year 1796, relative to the Britiſh treaty, and a compariſon has been drawn between that caſe and the one under conſideration. It is inſinuated that gentlemen who then voted againſt that reſolution, are now acting inconſiſtently; that they then denied the right of the houſe to call upon the Executive for the papers. This, ſir, is a miſtake: The right to call for papers was not denied by thoſe who oppoſed the reſolution, but the object to which the information was to be applied, was objected to. A treaty had been concluded by the Preſident and Senate, in whom the treaty-making power is veſted by the conſtitution; and the houſe of repreſentatives was called upon to make the appropriations neceſſary for carrying the treaty into effect. It was contended on the part of thoſe who advocated that reſolution, that the houſe had a right to enquire into the merits of that treaty; to judge for themſelves whether it was the beſt that could be formed; and if not, that they had a right to withhold the appropriations, and prevent the treaty from going into effect; thus, in fact, uſurping a part of the treating-making power. It was profeſſedly for the purpoſe of enabling the houſe to form a judgment upon this point, that the papers in that caſe were called for. On the other ſide, it was objected that the power of making treaties is veſted excluſively in the Preſident and Senate; that after a treaty had been ratified by them, the houſe of repreſentatives were bound in good faith to carry it into execution as a ſupreme law of the land, without inquiring into the merits of it. The oppoſition, therefore, to that reſolution was ſupported, not on the ground of a want of a right in the houſe to call for the papers, but on the ground that they were intended to give information on a ſubject upon which the houſe had no right to act after obtaining the information. No ſuch diſpute exiſts in the preſent inſtance. No perſon can doubt the right of the houſe to act upon the information now aſked for. The Preſident himſelf has told us, that it is a ſubject which ought to have weight in our deliberations; a ſubject on which it is our buſineſs to legiſlate. I aſk then, if we are to deliberate and legiſlate upon this ſubject; ſhall we go to work blindfold? Shall we go to work to deliberate and legiſlate upon a ſubject of which we are totally ignorant? *To this day the legiſlature of the United States have no official information of the fact, that Louiſiana is ceded to France, except the ſlight mention made of it in the Meſſage of the Preſident. Of the conditions upon which it is to be delivered up, of the time of the tranſfer, and of many other important circumſtances we know nothing.* Yet when we aſk to be furniſhed with information upon theſe great and momentous points, obſtacles are thrown in our way: we are called upon to delay—to go into a committee of the whole, not for the purpoſe of a more full and free diſcuſſion, not for the purpoſe of more readily obtaining the information, but for the avowed purpoſe of ſecrecy.

Mr. Randolph was ſorry that he was under the neceſſity of troubling the houſe again upon this queſtion. I have already more than once ſtated that I cannot diſcuſs this ſubject in public. I have obſervations which I have already ſaid muſt be made in ſecret, or they cannot be made at all. The gentleman from Connecticut ſays he is willing that the reſolution ſhould be fully diſcuſſed, and therefore contends that it muſt not be referred to a *ſecret* committee, as he is pleaſed to term it, where alone, as we have informed him, the diſcuſſion which he ſeems to court can take place: Sir, this may be logic, but I do not underſtand it. A meſſage from the Preſident relative to New-Orleans has been referred to a certain committee, and we propoſe to refer this reſolution to the ſame committee. Gentlemen exclaim, that this is denying them information. Does it follow, of neceſſity, that we deny the information becauſe we chuſe to conſider the ſubject with cloſed doors? Cannot the reſolution be as fully diſcuſſed in private as in public? Do all the reaſoning faculties of this houſe ceaſe to exiſt the moment the doors are cloſed? Cannot the eloquence of the gentlemen be exerted unleſs when addreſſed to the *ladies*, who do us the honor of attending in this hall? Sir, I ſhall not be drawn into a diſcuſſion of the merits of this reſolution at the preſent time. I have arguments to advance upon the ſubject, which will be known at a proper time. I ſhall not advance them now.

Mr. Bacon was oppoſed to the motion. He thought it would be proper to call for the information immediately, and when it ſhall be obtained, to refer that information to the ſecret committee on the ſtate of the Union. He did not ſee, that there could be any thing of a ſecret nature in the *reſolution*, nor any thing connected, in any way, with the Preſident's confidential meſſage; but he could eaſily conceive that the *information* to be obtained by the reſolution might be intimately connected with that ſubject; he ſhould therefore be in favor of referring *that* to a ſecret committee, but could ſee no neceſſity of diſpoſing of the reſolution in that way.

Mr. S. Smith. The gentleman from Connecticut has candidly admitted that it is cuſtomary in ſuch caſes to make a reference, tho' he is not in favor of the reference being made to a committee with ſhut doors; but if the object were to obtain a free diſcuſſion, he would not object to it. He is told that a full and free diſcuſſion cannot be had without ſuch a reference, and yet he perſiſts in his hoſtility to the motion. He had been told ſo by the mover, and common ſenſe would have told him ſo at firſt; yet he is for taking advantage of the mover, and for ſhutting out the arguments he has to urge. The gentleman is miſtaken in his ſtatement of the motives of the different ſides of the Houſe in the diſcuſſion on a call for papers in 1796, when he repreſents one ſide as claiming a right to participate in the treaty making power. He recollected it had been charged upon them; but they had denied it. We contended, ſaid General Smith, that when a treaty was formed appropriating a large ſum of money, we had a right to appropriate or not appropriate the money; but we never aſſumed the right to ſay whether the treaty was concluded or not. Afterwards, gentlemen themſelves, if he recollected right, moved a reſolution that it was expedient to carry the treaty into effect, by which they did admit the right of the Houſe. Mr. Smith ſaid he had no previous knowledge of what the gentleman from Virginia meant by his motion; he might perhaps wiſh to amend the reſolution; but when he ſays he has arguments that he cannot urge without ſhut doors, he truſted that indulgence would be allowed him, or there would be a denial of juſtice.

Mr. Dana remarked on the practice of referring ſubjects to a committee of the whole houſe. There are ſeveral objects to be anſwered by this formality. In committee of the whole, the ſpeaker may take part in debate, like any other member, and thus we can have the benefit of his opinions. Every propoſition, adopted in committee of the whole, is liable to a ſecond diſcuſſion in the houſe. The reference to a committee of the whole, in this reſpect, is much the ſame with ſaying that a ſubject ſhould be diſcuſſed twice. In ſome caſes, therefore, it is required, by the ſtanding rules of the houſe, that particular ſubjects be referred to a committee of the whole. All mo-

ney bills muſt firſt be diſcuſſed in committee of the whole, and then referred to the houſe, where they are again conſidered. In this manner, the reference of a ſubject to a committee of the whole is favorable to a full diſcuſſion. It is alſo known, that greater freedom of debate is allowed in committee of the whole, than in the houſe, every membee being permitted to ſpeak, in the committee, as often as he may chooſe. But in the houſe, no member is authorized to ſpeak on a queſtion more than twice, without firſt obtaining leave in form. This has been exemplified to-day in the caſe of the gentleman from Virginia (Mr. Randolph). The ſpeaker took a vote on the queſtion of giving the gentleman liberty to ſpeak a third time. It is thus, we ſee, that a full and free diſcuſſion of a ſubject is ſecured by referring it to a committee of the whole.———But does this require, that the committee of the whole ſhould be a ſecret commitee? The terms, free and full diſcuſſion, ſo often in the mouth of the gentleman from Maryland (Gen. S. Smith) are ſo much in uſe, and their import is ſo well known, that the gentleman muſt be preſumed to underſtand them, as they are applicable to the ordinary forms of proceeding in committee of the whole. In this known and obvious ſenſe, my colleague (Mr. Griſwold) undoubtedly made uſe of the terms. The gentleman from Maryland, therefore, fails in attempting to infer the neceſſity of a ſecret committee, from what has been ſaid by my colleague.

The importance of having information, reſpecting the ceſſion of Louiſiana to France, is not denied. Gentlemen do not profeſs to have objections againſt its being granted. Where then the neceſſity of diſcuſſing the ſubject in a committee of the whole? Is any queſtion of principle, or of fact, to be debated? The requeſt is for ſuch information, and for none but ſuch, as the Preſident may judge proper to be communicated. If the information is important in itſelf, if it is not objected againſt by gentlemen, and is finally ſubmitted to the Preſident's diſcretion, can there be a queſtion about the principle of the reſolution?

As to any queſtion of fact, the only fact, neceſſary to be aſcertained before adopting the reſolution, is our own want of information. This every gentleman can inſtantly determine for himſelf. If any gentlemen have the information, in conſequence of being admitted into the cabinet, they ſhould be ſo compaſſionate as at leaſt to allow an official communication to be made for the benefit of thoſe who have not the ſame pretenſions, and who feel and acknowledge their want of information.

As it does not appear that there is any reaſon for diſcuſſing the reſolution in a committee of the whole, I would adopt it now, and am againſt the propoſed reference. But although this is my preſent opinion, if any gentleman will ſeriouſly ſay, that in his judgment, there is a queſtion of principle, or fact, which ought to be diſcuſſed on this reſolution, I would, from reſpect to him, be diſpoſed to agree to the reference, and proceed immediately to the diſcuſſion, without cloſing the doors.

The queſtion was then taken on Mr. Randolph's motion, by yeas and nays and carried in the *affirmative*, yeas 48 nays 39. On motion of Mr. *Griſwold* the houſe reſolved itſelf into a committee of the whole on the ſtate of the union, Mr. *John C. Smith* in the chair.

M. Randolph inſtantly roſe and ſaid he held in his hand certain reſolutions connected with the meſſage of the preſident which had been diſcuſſed with cloſed doors. He hoped the galleries would be cleared and that the committee would conſider the reſolutions. He ſubmitted it to the chair whether the doors ought not to be cloſed before reading his reſolutions.

Mr. Dana wiſhed to know whether it appeared by the journals that any ſuch buſineſs was before the committee. If not, it could not be proper publicly to take any order upon it.

Mr. Randolph ſaid he would call for the reading of the confidential meſſage.

Mr. Chairman gave it as his opinion that if any gentleman has buſineſs of a confidential nature to communicate, the information ſhould be given to the houſe, upon which the galleries will be cleared, and the houſe after having received the communication will judge whether it is of a nature which ought to be kept ſecret.—He was of opinion that the committee had no power to order the galleries to be cleared He read certain rules of the houſe upon which he founded this opinion.

Mr. Griſwold ſaid there was other buſineſs before the committee not of a private nature, namely, the reſolution which had been that morning diſcuſſed in the houſe. He hoped the committee would now conſider that reſolution.

Mr. Randolph ſaid the reading of a paper had been called for—and no other buſineſs could be introduced till the queſtion had been decided whether the paper ſhould be read or not.

Mr. Griſwold ſaid there was no ſuch paper before the committee. The paper, the reading of which is called for, is before a *ſecret* committee of the whole on the ſtate of the union. This is not a ſecret committee.

Mr. S. Smith said he believed it had been uſual, upon information from any member, that he had buſineſs of a confidential nature to lay before the houſe, for the houſe to order the galleries cleared. This he ſaid he believed had been the ordinary mode of proceeding, and as an irregularity had taken place in the preſent inſtance, he would move, That the committee now riſe, report progreſs, and aſk leave to ſit again—for the purpoſe of moving, in the houſe, that the galleries ſhould be cleared.

Mr. Griſwold did hope that the committee would not riſe. There is buſineſs now before the committee which ought to be taken up. The only reaſon given for the committee riſing, is that a motion may be made to cloſe the doors, in order again to go into a committee upon ſecret buſineſs. What propriety can there be in adopting this meaſure, when there is already before the committee buſineſs of a public and important nature which may now be taken up and acted upon? I refer, ſir, to the reſolution which has been under diſcuſſion this morning, and which is the very object for which the houſe went into committee. Sir I take the liberty to ſay that this is buſineſs of a very preſſing nature and ought to be acted upon immediately—it ought not to be poſtponed for any other buſineſs which can be brought before the legiſlature.

Mr. Dana ſaid he really ſhould hope, that as there is buſineſs, as his colleague had ſtated, of a very preſſing nature, now before the committee, they would not act ſuch a farce as to riſe immediately without accompliſhing any thing. He hoped that gentlemen would not conſent to exhibit in the eyes of the world the ſpectacle of the national legiſlature going into committee for no other purpoſe than to come out again, and that to when buſineſs of the utmoſt importance was before them.

Mr. Rutledge. Although much has been ſaid about the propriety of a reference to a committee of the whole houſe, and we have been charged, for oppoſing it, with a departure from the uſual mode of proceeding, and particularly from that purſued when the executive was called upon for information reſpecting Mr. Jay's negociations, yet, in reality, it is quite immaterial to us whether the reſolution be acted upon by the houſe, or by a Committee, provided, that before acting upon the ſubject connected with it, we are permitted to aſk for whatever information the Preſident may deem it proper to communicate. Gentlemen have not aſſigned their reaſons why we ſhould not call for information and I cannot conjecture them. Surely they are not afraid that the executive will communicate what ought to be kept ſecret: becauſe this houſe calls, he is not obliged to give the information aſked, and ſhould he deem it prudent to withhold it, he will, I preſume, do his duty. It is true that the reſolution calling for papers in the year ninety-five, was conſidered in a committee of the whole, as has been ſtated by the gentlemen on my left (Mr. Smilie) but the diſcuſſion was a public one; whereas gentlemen now wiſh to carry us into a committee with cloſed doors, and when

there, they, without aſſigning any reaſons, will probaly vote againſt our calling for information. The belief of Louiſiana's having been ceded to France, and the anticipation of thoſe meaſures which would probably be conſequent to the ceſſion, have greatly excited the ſenſibility of our fellow citizens in every part of the country, and they have a right to be fully informed on this ſubject. Gentlemen advert to what was done by this ſide of the houſe when papers were called for in relation to the treaty of London, and yet all we aſk is, that they would now purſue a courſe ſimilar to what was then purſued, and take the preſent motion into conſideration *without cloſing our doors*. The information we deſire is wanted by our conſtituents no leſs than by ourſelves, and if it be withheld, they ought to know the grounds of the refuſal.

Mr. Euſtis ſaid if the gentleman from Connecticut had moved to go into a committee of the whole, for the ſpecial purpoſe of conſidering his reſolution, he ſhould then ſuppoſe that buſineſs ought to have the preference: But as the motion was general, he was of opinion that the buſineſs which had the priority in point of time ought to have the priority in the attention of the houſe. The reſolution had never been before the houſe till yeſterday: the meſſage of the preſident had lain upon the table for ſeveral days. He therefore thought the committee ought to riſe in order to go, in a regular manner into a conſideration of that ſubject.

Mr. Macon (Speaker) remarked that a committee of the whole houſe was one committee, and a committee of the whole houſe on the ſtate of the union another committee. They were diſtinct committees. The laſt was never formed for ſpecial purpoſes. He did not recollect that this had ever been done. Whereas the other committee was always formed for a ſpecial purpoſe. The difficulty in this caſe had ariſen from refering the confidential meſſage to a committee of the whole on the ſtate of the Union. He believed it would be well to riſe and ſeparate the two ſubjects that had been referred to the committee on the ſtate of the Union.

Mr. Griſwold could not underſtand what was ſaid by the gentleman from Maſs. (Mr. Euſtis) relative to a priority of motion. He knew of but one motion before the committee. One motion had been made, and had been decided to be out of order. Another was then made and was now under conſideration. He knew of but two ſubjects which had been referred to a committee of the whole on the ſtate of the Union; one of theſe was of a public nature, and the other of a private nature. A ſubject of a private nature could not be taken up by a committee ſitting with open doors; of courſe there was but one ſubject which could come before the committee; that ſubject was now before it, and as every body muſt view it as a very important and preſſing one, he hoped the committee would not riſe without diſpoſing of it.

Mr. S. Smith remarked that he and his friends muſt feel themſelves under peculiar obligation to the gentleman from South-Carolina (Mr. Rutledge), for ſuggeſting to them what he conſidered as the proper courſe in this buſineſs. I dare ſay, ſaid, Mr. Smith, that the mode propoſed by that gentleman appears to him a very proper one; and the reaſons which he has ſtated for prefering that mode are, no doubt, very ſatisfactory to him: but, ſir, they are not ſo to me. I have no doubt that that gentleman would be very willing to direct us in what manner we ſhall conduct our own affairs; but Sir, he will permit me to inform him that *we have taken great pains to get the power out of the hands of that gentleman and his friends, and to veſt it in our own hands*, and he can hardly ſuppoſe, after all this, that we will ſuffer gentlemen to direct our affairs in a different courſe from that which we wiſh them to take. It was our intention, Sir, that this reſolution ſhould not be diſcuſſed with open doors, and I truſt gentlemen will find that they cannot embarraſs us in ſuch a manner as to force us to relinquiſh our purpoſe.

Mr. Dana. The honourable gentleman from Maryland (Gen. S. Smith) has expreſſed one ſentiment in which I perfectly acquieſce. It is that he and his political friends have taken great pains to obtain the poſſeſſion of power.

But, Sir, permit me to expreſs my regret, that on the preſent occaſion there ſhould be any recurrence to the diſtinction of politicial parties. In deliberating on a ſubject which peculiarly affects the inhabitants of the weſtern country, and is extenſively intereſting to the commerce and navigation of the Atlantic ſtates, it was to be hoped, that the ſpirit of party might be permitted to ſlumber. On a queſtion embracing ſuch great concerns, ſo deeply intereſting to all Americans, ſo ſeriouſly connected with our exiſtence as one united nation. It is eminently deſirable, that this houſe ſhould exhibit, to our fellow citizens, an example of unanimity. Beneficial effects to our country may be expected, if we now prove to the world, by our conduct, that however we may differ on other topics, with reſpect to this great object, we all have but one will, that we all are animated with one ſoul, and, if force ſhould ultimately be neceſſary, will ſtrike as with one arm.

Mr. L. Morris did not agree with the hon. ſpeaker, that the committee of the whole on the ſtate of the union never ſat on a *ſpecial* ſubject. He recollected laſt ſeſſion, that a propoſition to amend the conſtitution was referred to that committee, and the chairman, when the committee roſe, reported that they had diſagreed to the reſolution. He remembered that he objected at the time, to that form of reporting; the cuſtom had before been to report that they had come to no reſolution: This was decided to be the correct mode. Conſequently if the committee now riſe, as the reſolution of the gentleman from Connecticut is under conſideration, it will be a rejection of the reſolution and a denial of the information.

The queſtion was taken on Mr. Smith's motion that the committee riſe, and carried in the affirmative. They accordingly roſe, and the chairman, reported, That the committee of the whole houſe had, according to order, had the ſtate of the union under conſideration, but had come to no reſolution thereon.

A motion was made to adjourn.

Mr. Griſwold called for the yeas and nays upon the queſtion, which being taken, the motion was not carried, Yeas 38, Nays 51.

Mr. Dawſon ſtated, that in conformity to the ſuggeſtion of the honourable, the Speaker, he held in his hand a reſolution which he begged leave to read. He read his reſolution, which was to diſcharge the committee of the whole on the ſtate of the Union from any further conſideration of the Preſident's meſſage relative to ſhutting the port of New-Orleans. Having read his reſolution, he carried it up to the clerk's table.

Mr. Griſwold aſked if there was any ſuch meſſage before the houſe? and if not, whether the reſolution was in order.

Mr. Speaker decided that the motion was not in order, and

Mr. Dawſon carried his reſolution back again to his ſeat.

A motion was made that the galleries ſhould now be cleared. The houſe divided upon the queſtion, which was carried in the affirmative by the caſting vote of the ſpeaker, there being 41 on each ſide.

The houſe remained with cloſed doors during the remainder of the day.

FROM THE ALBANY CENTINEL,

OF FEBRUARY 4.

On Tueſday the legiſlature made choice of *Theodorus Bailey*, of the county of Dutcheſs, for Senator in Congreſs, in the room of *Gouverneur Morris*, whoſe ſeat becomes vacant in March next. The votes on this occaſion were, for Mr. *Bailey* 59, for *John Woodworth*, Eſq. 57.

It is generally ſpoken of by the members of the Legiſlature, that Mr. Woodworth would have been elected, had it not been

for the officiouſneſs of the A——y G——l in his behalf. Some of his party had firmneſs enough to ſhew, by their vote, their diſapprobation of his coming within the bar of the Houſe, writing ballots at the deſk, and diſtributing them among the members; and to ſhew alſo that they do not conſider him a legiſlator, *ex officio*; or that he has any buſineſs to attempt an interference in elections devolving excluſively upon our repreſentatives, until we, the people, ſhall write upon our ballots, "TURN THEM OUT."

We are told that his chagrin at Mr. Woodworth's defeat was ſuch, that he offered a guinea a-head for the names of thoſe of his party who had pledged themſelves to vote for Mr. W. at a Caucus previouſly held, and who had now proved treacherous. What an odious thing it is, in the eyes of ſome folks, to change ſides.

Be it our weekly task,
To note the paſſing tidings of the times.

Hudson, *February* 8, 1803.

The committee appointed by the legiſlature, for the purpoſe of taking into conſideration, the ſtate of the treaſury of this ſtate, have reported that there is due from the Treaſurer to the ſtate the ſum of 33,680 dollars, 85 cents.—The Treaſurer has reſigned his office.

GIDEON GRANGER
"*At his dirty work again.*"

CONRAD I. ELMENDORF, is appointed Poſt-Maſter at Kingſton, in this ſtate, in the place of JAMES C. ELMENDORF, *turned out.*

"Mr. ELMENDORF (ſays the Kingſton paper) has uniformly diſcharged the duties of his office with the greateſt fidelity, but he was a Federal Republican."

Mr. STEPHEN SALISBURY, of Worceſter, Maſs. has ſubſcribed *Five Hundred Dollars* towards the relief of the ſufferers by the late fire in Portſmouth.

IMPORTANT.

TO THE EDITOR.

Extract of a letter from a gentleman at New-Orleans, dated December 18, 1802.

"Being preſent this morning at the Intendant's office, when the original of the following Royal Order was tranſcribed, I ſeized the opportunity of procuring a copy, and have tranſlated it in a hurry, under the hope that it will be acceptable to you.

"The Miniſter of War has commuicated to me the following—"In a letter of the 15th inſt. Don Pedro Cevallos, informs me as follows: Whereas his majeſty has ceded to the French Republic the colony or province of Louiſiana in all its preſent extent, and AS IT WAS HELD BY THE FRENCH WHEN CEDED TO HIS MAJESTY, I adviſe you thereof, by his Royal Order, that you make the neceſſary arrangements for the delivery of it to the French Commiſſioner or commiſſioners, who being duly authorized by the government, may preſent themſelves for the purpoſe. Which royal determination I have made known to the Captain General of Louiſiana, informing him at the ſame time, that it is his Majeſty's pleaſure with reſpect to the regiment of the place and the military that garriſon the province, that individuals who voluntarily wiſh to remain under his majeſty's dominion, ſhall, after delivering up the colony, proceed to the Havannah, where other poſts will be allotted them. Of this I adviſe you by royal order, that you may comply with that part of his royal determination which relates to you.

God preſerve you many years.

SOLER,
Miniſter of Foreign Affairs.

To the Intendant of Louiſiana.
Madrid, July 30, 1802.

[We conceive the foregoing to be a very intereſting and important document, inaſmuch as it confirms the apprehenſion already expreſſed, of the retroceſſion of Louiſiana being accompanied by a condition alarming to our rights on the Miſſiſſippi, and in flagrant violation of our treaty with his catholic majeſty. The province, as has been predicted, is to be given up to the French as the French gave it to Spain! Hence our future participation in the uſe of the Miſſiſſippi will depend on the generoſity or the juſtice of the Firſt Conſul, a tenure both precarious and humiliating. Good God, with theſe facts ſcreaming in the ears of our adminiſtration, will they have the tameneſs to perſiſt in an attempt to negociate!]

[*Philadelphia Gazette.*]

MARTINSBURG, (P.) JAN. 14.

MONEY MAKERS.

For ſome time paſt ſuſpicions were entertained, that baſe money was made in the ſhop of a certain Streithuff near Sleepy Creek, in this county. To realize theſe ſuſpicions and detect the perſons engaged in this nefarious procedure, a party of perſons ſurrounded the ſhop on Friday laſt.—The ſhop was found cloſed. One of the party approached near the door when he diſtinctly heard the jingle of money. They demanded admittance—the demand was not complied with—the door was then forced open, when four men apparently much diſmaved, were diſcovered; theſe men were Compſey, Dowſon, Streithuff and the far-famed and well known Shockey. Many baſe dollars were found, together with a number of crucibles, a quantity of the neceſſary ingredients for preparing the metal, and all the implements for coining dollars. The four perſons were then arreſted and brought to Martinſburgh jail.

Their trial came on yeſterday before a court of inquiry in this town, when the court, after examining the witneſſes and hearing the pleadings, againſt and in favor of the priſoners, adjudged them to be ſent to the diſtrict courts holden at Winchester for further trial.

The Knot.

MARRIED,

At Franklin, in this ſtate, the 19th ult. Mr. NOAH O. CASE to Miss LUCRETIA TREADWELL.

To Correspondents.

"A democratic prophecy of the year 1797, partly fulfilled, and now ſubmitted to our brethren in the weſtern country," is a very ſeaſonable and important document and ſhall have a place in our next.

"OBSERVER" ſhall occupy the firſt ſpare column in our political department.

Dr. ELMORE's communication has been unavoidably poſtponed. It ſhall appear next week.

"SATYRICUS" ſhall embellish our next *Wreath*-

TERMS OF THE BALANCE.

To City Subſcribers, Two Dollars and fifty cents, payable in quarterly advances.

To Country Subſcribers, who receive their papers at the office, Two Dollars, payable as above.

To thoſe who receive them by the mail, Two Dollars, excluſive of poſtage, payable in advance.

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The Wreath.

FOR THE BALANCE.

THE WOODMAN.

YOU ask, who lives in yonder cot
Remote, where strangers seldom tread?
A woodman there enjoys his lot,
Who labours for his daily bread.
In this lone forest wild and rude,
He earns his meal by—cutting wood.

No wife has he to whom confin'd,
No child to bring perpetual care,
No servant to perplex his mind,
No friend his frugal meal to share;
Alone, and in a cheerful mood,
He earns his bread by—cutting wood.

From wealth and power he lives secure,
Unknown beneath his humble roof,
Untaught, yet blest—content, though poor—
While every care he keeps aloof;
Thus having nought o'er which to brood,
He spends his days in—cutting wood.

Soon as he views the rising sun,
He eats his crust of coarse brown bread,
Shoulders his hatchet and his gun,
And thus, by constant habit led,
In that recess where oft he's stood,
He still continues—cutting wood.

To him indifferent seasons roll,
He values not the lapse of time;
He only seeks to mould his soul,
And fit it for a happier clime,
Where pain and sorrow ne'er intrude,
Where soon he'll cease from—cutting wood.

Does not this peasant happier live
Than those who "follow wealth and fame?"
Can these bestow what peace can give,
Or raise to health the sickly frame?
He's blest indeed who poor and good
Earns his brown loaf by—cutting wood.

JULIENNE.

Kingston, Ulster County.

[*There is much point in the following epigram*]

A COCK, within a stable pent,
Was strutting o'er a heap of dung,
And still as round and round he went,
The mettled courser stampt and flung.

Bravo! quoth he, a decent noise,
We make a tolerable pother;
But let's take care my merry boys,
We tread not upon one another.

Monitorial Department.

To aid the cause of virtue and religion.

FOR THE BALANCE.

DOCUMENTS CONCERNING THE EXISTENCE OF NOAH's DELUGE.

ON the ſuppoſition of the truth of the ſcripture hiſtory of the flood, it might reaſonably be expected that, altho' that event happened more than four thouſand years ago, the marks of it would be plainly apparent, in the various quarters of the globe. A rain of forty days and forty nights, conſtantly ruſhing down with aſtoniſhing profuſion and impetuoſity, like cataracts, which is denoted by "opening the windows of heaven," muſt have ſo looſed the ſurface of the earth as to change it almoſt into a fluid. The ſurface and even the deep beds of the earth, being thus looſened and mixed with the waters, muſt have been driven by them, hither and thither to great diſtances. At the ſame time, the "breaking up the fountains of the great deep," or opening the "bars and doors" of the vaſt ocean, ſo that their waters were made to ruſh over the continents, muſt have greatly augmented and multiplied the ravages upon the face of the earth.

Now, if the hiſtory of Moſes concerning the flood, wherein theſe wonderful circumſtances are related, be true, it would be reaſonable to expect that the face of the earth ſhould ſtill diſcover the marks of a moſt terrible convulſion. It would be reaſonable to expect (provided Moſes gave a true hiſtory) that there ſhould appear, in ſome places, horrible precipices, conſiſting of bare and rugged rocks piled upon rocks; and, in others, frightful caverns, ſeemingly yawning to the centre of the earth: that the ſoil ſhould be utterly ſwept off from ſome large diſtricts, and nothing be ſeen but barren ſands, as in the deſerts of Arabia; and that in others, the bodies of large foreſt-trees ſhould be found under a rich ſoil and at the depth of twenty or thirty feet:—that bones of animals, which are peculiar to warm climates, ſhould be found in the moſt froſty regions; and that there ſhould be frequently diſcovered beds of ſea-ſhells, in elevated ſituations and at great diſtances from the waters in which they were formed, &c. &c.

Theſe and ſuch like phenomena were, I ſay, to have been expected, on the ſuppoſition that the ſcripture hiſtory of the flood is true.

Of their actual exiſtence I ſhall treat in my next. W.

Agricultural.

FOR THE BALANCE.

SUBSTITUTES FOR THE SUGAR CANE.

SOON after the commencement of the revolutionary war in this country, all commerce with the Weſt-Indies being obſtructed, attempts were made to obtain molaſſes from the ſtalks of Indian Corn. The corn-ſtalks, while full of ſap, were ground in a mill, like apples, and the ſap or juice that was preſſed out, was boiled to a ſyrup of the conſiſtence of molaſſes. The ſubſequent ſupplies of ſugar, by the capture of a large number of Britiſh Weſt-India ſhips, prevented this experiment from being carried to any conſiderable extent. The ſugar-maple is the indigenous *ſweet cane* of North America. If this valuable ſpecies of trees were to be raiſed in nurſeries and tranſplanted and diſtributed over the country, like the apple-tree, it might produce vaſt quantities of ſugar. There has been found another ſubſtitute for the ſugar-cane, which, perhaps, may prove ſuperior to the ſweet-maple.

Mr. Athard, of the kingdom of Pruſſia, has diſcovered a method of making ſugar from the root of the white beet. This proceſs is ſaid to have been already bro't to a high degree of perfection in Pruſſia; inſomuch that coarſe ſugar, refined ſugar, molaſſes, &c. are now obtained in large quantities from the white beet, and at a much leſs expence than that of the ſugars of India. As beets are eaſily raiſed, the time may come, when the farmers in the northern climates of this country, and eſpecially thoſe who live diſtant from navigation, will ſupply themſelves with ſugars and molaſſes, from the produce of their own fields.

APHORISM.—The wrangler, the puzzler, the word hunter, are incapable of great thoughts or actions.—*Lavater.*

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